



January 22, 2016

SENATE BILL No. 80

DIGEST OF SB 80 (Updated January 19, 2016 6:58 pm - DI 106)

Citations Affected: IC 25-26; IC 34-30; IC 35-31.5; IC 35-48; noncode.

Synopsis: Pharmacists and ephedrine. Defines "drug related felony" and provides that the offense of possession of a precursor by a methamphetamine offender (which prohibits the possession of pseudoephedrine or ephedrine without a prescription by persons convicted of certain offenses) applies to a person who has been convicted of a drug related felony. Allows a pharmacist to deny the sale of ephedrine or pseudoephedrine on the basis of the pharmacist's professional judgment, and provides the pharmacist with civil immunity for the exercise of the pharmacist's professional judgment. Allows the Indiana board of pharmacy to: (1) adopt rules regarding professional determinations made; (2) review professional determinations made; and (3) discipline a pharmacist for a professional determination made; concerning refusal to sell ephedrine or pseudoephedrine.

Effective: July 1, 2016.

**Head, Merritt, Hershman, Holdman,
Becker, Ford, Rogers**

January 5, 2016, read first time and referred to Committee on Family & Children Services.
January 13, 2016, reassigned to Committee on Corrections & Criminal Law pursuant to Rule 68(b).
January 21, 2016, amended, reported favorably — Do Pass.

SB 80—LS 6249/DI 104



January 22, 2016

Second Regular Session 119th General Assembly (2016)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2015 Regular Session of the General Assembly.

SENATE BILL No. 80

A BILL FOR AN ACT to amend the Indiana Code concerning professions and occupations.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 25-26-13-4, AS AMENDED BY P.L. 182-2009(ss),
2 SECTION 371, IS AMENDED TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2016]: Sec. 4. (a) The board may:

4 (1) promulgate rules and regulations under IC 4-22-2 for
5 implementing and enforcing this chapter;

6 (2) establish requirements and tests to determine the moral,
7 physical, intellectual, educational, scientific, technical, and
8 professional qualifications for applicants for pharmacists'
9 licenses;

10 (3) refuse to issue, deny, suspend, or revoke a license or permit or
11 place on probation or fine any licensee or permittee under this
12 chapter;

13 (4) regulate the sale of drugs and devices in the state of Indiana;

14 (5) impound, embargo, confiscate, or otherwise prevent from
15 disposition any drugs, medicines, chemicals, poisons, or devices
16 which by inspection are deemed unfit for use or would be
17 dangerous to the health and welfare of the citizens of the state of

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Indiana; the board shall follow those embargo procedures found in IC 16-42-1-18 through IC 16-42-1-31, and persons may not refuse to permit or otherwise prevent members of the board or their representatives from entering such places and making such inspections;

(6) prescribe minimum standards with respect to physical characteristics of pharmacies, as may be necessary to the maintenance of professional surroundings and to the protection of the safety and welfare of the public;

(7) subject to IC 25-1-7, investigate complaints, subpoena witnesses, schedule and conduct hearings on behalf of the public interest on any matter under the jurisdiction of the board;

(8) prescribe the time, place, method, manner, scope, and subjects of licensing examinations which shall be given at least twice annually; and

(9) perform such other duties and functions and exercise such other powers as may be necessary to implement and enforce this chapter.

(b) The board shall adopt rules under IC 4-22-2 for the following:

(1) Establishing standards for the competent practice of pharmacy.

(2) Establishing the standards for a pharmacist to counsel individuals regarding the proper use of drugs.

(3) Establishing standards and procedures before January 1, 2006, to ensure that a pharmacist:

(A) has entered into a contract that accepts the return of expired drugs with; or

(B) is subject to a policy that accepts the return of expired drugs of;

a wholesaler, manufacturer, or agent of a wholesaler or manufacturer concerning the return by the pharmacist to the wholesaler, the manufacturer, or the agent of expired legend drugs or controlled drugs. In determining the standards and procedures, the board may not interfere with negotiated terms related to cost, expenses, or reimbursement charges contained in contracts between parties, but may consider what is a reasonable quantity of a drug to be purchased by a pharmacy. The standards and procedures do not apply to vaccines that prevent influenza, medicine used for the treatment of malignant hyperthermia, and other drugs determined by the board to not be subject to a return policy. An agent of a wholesaler or manufacturer must be appointed in writing and have policies, personnel, and facilities



- 1 to handle properly returns of expired legend drugs and controlled
 2 substances.
- 3 (c) The board may grant or deny a temporary variance to a rule it
 4 has adopted if:
- 5 (1) the board has adopted rules which set forth the procedures and
 6 standards governing the grant or denial of a temporary variance;
 7 and
 8 (2) the board sets forth in writing the reasons for a grant or denial
 9 of a temporary variance.
- 10 (d) The board shall adopt rules and procedures, in consultation with
 11 the medical licensing board, concerning the electronic transmission of
 12 prescriptions. The rules adopted under this subsection must address the
 13 following:
- 14 (1) Privacy protection for the practitioner and the practitioner's
 15 patient.
 16 (2) Security of the electronic transmission.
 17 (3) A process for approving electronic data intermediaries for the
 18 electronic transmission of prescriptions.
 19 (4) Use of a practitioner's United States Drug Enforcement
 20 Agency registration number.
 21 (5) Protection of the practitioner from identity theft or fraudulent
 22 use of the practitioner's prescribing authority.
- 23 (e) The governor may direct the board to develop:
- 24 (1) a prescription drug program that includes the establishment of
 25 criteria to eliminate or significantly reduce prescription fraud; and
 26 (2) a standard format for an official tamper resistant prescription
 27 drug form for prescriptions (as defined in IC 16-42-19-7(1)).
- 28 The board may adopt rules under IC 4-22-2 necessary to implement
 29 this subsection.
- 30 (f) The standard format for a prescription drug form described in
 31 subsection (e)(2) must include the following:
- 32 (1) A counterfeit protection bar code with human readable
 33 representation of the data in the bar code.
 34 (2) A thermochromic mark on the front and the back of the
 35 prescription that:
- 36 (A) is at least one-fourth (1/4) of one (1) inch in height and
 37 width; and
 38 (B) changes from blue to clear when exposed to heat.
- 39 (g) The board may contract with a supplier to implement and
 40 manage the prescription drug program described in subsection (e). The
 41 supplier must:
- 42 (1) have been audited by a third party auditor using the SAS 70



1 audit or an equivalent audit for at least the three (3) previous
 2 years; and
 3 (2) be audited by a third party auditor using the SAS 70 audit or
 4 an equivalent audit throughout the duration of the contract;
 5 in order to be considered to implement and manage the program.

6 **(h) The board may, consistent with IC 35-48-4-14.7:**

7 **(1) adopt rules under IC 4-22-2 regarding professional**
 8 **determinations made;**

9 **(2) review determinations made by a pharmacist; and**

10 **(3) take appropriate disciplinary action against a pharmacist**
 11 **for a determination made;**

12 **under IC 35-48-4-14.7 concerning the sale of ephedrine and**
 13 **pseudoephedrine.**

14 SECTION 2. IC 34-30-2-152.3, AS AMENDED BY P.L.193-2013,
 15 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 16 JULY 1, 2016]: Sec. 152.3. **(a) ~~IC 35-48-4-14.7~~ IC 35-48-4-14.7(d)**
 17 **and IC 35-48-4-14.7(k)** (Concerning a pharmacy or NPEX retailer
 18 who discloses information concerning the sale of a product containing
 19 ephedrine or pseudoephedrine).

20 **(b) IC 35-48-4-14.7(d)(3) (Concerning a pharmacist's**
 21 **professional judgment not to sell ephedrine or pseudoephedrine to**
 22 **an individual).**

23 SECTION 3. IC 35-31.5-2-106.5 IS ADDED TO THE INDIANA
 24 CODE AS A NEW SECTION TO READ AS FOLLOWS
 25 [EFFECTIVE JULY 1, 2016]: Sec. 106.5. **"Drug related felony", for**
 26 **purposes of IC 35-48-4-14.5, means a felony conviction for an**
 27 **offense described in:**

28 **(1) IC 35-48-4-1 through IC 35-48-4-11.5; and**

29 **(2) IC 35-48-4-13 through IC 35-48-4-14.7.**

30 SECTION 4. IC 35-48-4-14.5, AS AMENDED BY P.L.168-2014,
 31 SECTION 105, IS AMENDED TO READ AS FOLLOWS
 32 [EFFECTIVE JULY 1, 2016]: Sec. 14.5. (a) As used in this section,
 33 "chemical reagents or precursors" refers to one (1) or more of the
 34 following:

35 (1) Ephedrine.

36 (2) Pseudoephedrine.

37 (3) Phenylpropanolamine.

38 (4) The salts, isomers, and salts of isomers of a substance
 39 identified in subdivisions (1) through (3).

40 (5) Anhydrous ammonia or ammonia solution (as defined in
 41 IC 22-11-20-1).

42 (6) Organic solvents.



- 1 (7) Hydrochloric acid.
- 2 (8) Lithium metal.
- 3 (9) Sodium metal.
- 4 (10) Ether.
- 5 (11) Sulfuric acid.
- 6 (12) Red phosphorous.
- 7 (13) Iodine.
- 8 (14) Sodium hydroxide (lye).
- 9 (15) Potassium dichromate.
- 10 (16) Sodium dichromate.
- 11 (17) Potassium permanganate.
- 12 (18) Chromium trioxide.
- 13 (19) Benzyl cyanide.
- 14 (20) Phenylacetic acid and its esters or salts.
- 15 (21) Piperidine and its salts.
- 16 (22) Methylamine and its salts.
- 17 (23) Isosafrole.
- 18 (24) Safrole.
- 19 (25) Piperonal.
- 20 (26) Hydriodic acid.
- 21 (27) Benzaldehyde.
- 22 (28) Nitroethane.
- 23 (29) Gamma-butyrolactone.
- 24 (30) White phosphorus.
- 25 (31) Hypophosphorous acid and its salts.
- 26 (32) Acetic anhydride.
- 27 (33) Benzyl chloride.
- 28 (34) Ammonium nitrate.
- 29 (35) Ammonium sulfate.
- 30 (36) Hydrogen peroxide.
- 31 (37) Thionyl chloride.
- 32 (38) Ethyl acetate.
- 33 (39) Pseudoephedrine hydrochloride.
- 34 (b) A person who possesses more than ten (10) grams of ephedrine,
- 35 pseudoephedrine, or phenylpropanolamine, pure or adulterated,
- 36 commits a Level 6 felony. However, the offense is a Level 5 felony if
- 37 the person possessed:
- 38 (1) a firearm while possessing more than ten (10) grams of
- 39 ephedrine, pseudoephedrine, or phenylpropanolamine, pure or
- 40 adulterated; or
- 41 (2) more than ten (10) grams of ephedrine, pseudoephedrine, or
- 42 phenylpropanolamine, pure or adulterated, in, on, or within five



- 1 hundred (500) feet of:
- 2 (A) school property while a person under eighteen (18) years
- 3 of age was reasonably expected to be present; or
- 4 (B) a public park while a person under eighteen (18) years of
- 5 age was reasonably expected to be present.
- 6 (c) A person who possesses anhydrous ammonia or ammonia
- 7 solution (as defined in IC 22-11-20-1) with the intent to manufacture
- 8 methamphetamine or amphetamine, schedule II controlled substances
- 9 under IC 35-48-2-6, commits a Level 6 felony. However, the offense
- 10 is a Level 5 felony if the person possessed:
- 11 (1) a firearm while possessing anhydrous ammonia or ammonia
- 12 solution (as defined in IC 22-11-20-1) with intent to manufacture
- 13 methamphetamine or amphetamine, schedule II controlled
- 14 substances under IC 35-48-2-6; or
- 15 (2) anhydrous ammonia or ammonia solution (as defined in
- 16 IC 22-11-20-1) with intent to manufacture methamphetamine or
- 17 amphetamine, schedule II controlled substances under
- 18 IC 35-48-2-6, in, on, or within five hundred (500) feet of:
- 19 (A) school property while a person under eighteen (18) years
- 20 of age was reasonably expected to be present; or
- 21 (B) a public park while a person under eighteen (18) years of
- 22 age was reasonably expected to be present.
- 23 (d) Subsection (b) does not apply to a:
- 24 (1) licensed health care provider, pharmacist, retail distributor,
- 25 wholesaler, manufacturer, warehouseman, or common carrier or
- 26 an agent of any of these persons if the possession is in the regular
- 27 course of lawful business activities; or
- 28 (2) person who possesses more than ten (10) grams of a substance
- 29 described in subsection (b) if the substance is possessed under
- 30 circumstances consistent with typical medicinal or household use,
- 31 including:
- 32 (A) the location in which the substance is stored;
- 33 (B) the possession of the substance in a variety of:
- 34 (i) strengths;
- 35 (ii) brands; or
- 36 (iii) types; or
- 37 (C) the possession of the substance:
- 38 (i) with different expiration dates; or
- 39 (ii) in forms used for different purposes.
- 40 (e) A person who possesses two (2) or more chemical reagents or
- 41 precursors with the intent to manufacture a controlled substance
- 42 commits a Level 6 felony.



(f) An offense under subsection (e) is a Level 5 felony if the person possessed:

(1) a firearm while possessing two (2) or more chemical reagents or precursors with intent to manufacture a controlled substance; or

(2) two (2) or more chemical reagents or precursors with intent to manufacture a controlled substance in, on, or within five hundred (500) feet of:

(A) school property while a person under eighteen (18) years of age was reasonably expected to be present; or

(B) a public park while a person under eighteen (18) years of age was reasonably expected to be present.

(g) A person who sells, transfers, distributes, or furnishes a chemical reagent or precursor to another person with knowledge or the intent that the recipient will use the chemical reagent or precursors to manufacture a controlled substance commits unlawful sale of a precursor, a Level 6 felony. However, the offense is a Level 5 felony if the person sells, transfers, distributes, or furnishes more than ten (10) grams of ephedrine, pseudoephedrine, or phenylpropanolamine.

(h) This subsection does not apply to a drug containing ephedrine, pseudoephedrine, or phenylpropanolamine that is dispensed under a prescription. A person who:

(1) has been convicted of:

(A) dealing in methamphetamine (IC 35-48-4-1.1);

(B) possession of more than ten (10) grams of ephedrine, pseudoephedrine, or phenylpropanolamine (subsection (b));

(C) possession of anhydrous ammonia or ammonia solution (as defined in IC 22-11-20-1) with intent to manufacture methamphetamine or amphetamine (subsection (c));

(D) possession of two (2) or more chemical reagents or precursors with the intent to manufacture a controlled substance (subsection (e)); ~~or~~

(E) unlawful sale of a precursor (subsection (g)); **or**

(F) another drug related felony (as defined in IC 35-31.5-2-106.5); and

(2) not later than seven (7) years from the date the person was sentenced for the offense;

knowingly or intentionally possesses ephedrine, pseudoephedrine, or phenylpropanolamine, pure or adulterated, commits possession of a precursor by a methamphetamine offender, a Level 6 felony.

SECTION 5. IC 35-48-4-14.7, AS AMENDED BY P.L.193-2013, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE



JULY 1, 2016]: Sec. 14.7. (a) This section does not apply to the following:

(1) Ephedrine or pseudoephedrine dispensed pursuant to a prescription.

(2) The sale of a drug containing ephedrine or pseudoephedrine to a licensed health care provider, pharmacist, retail distributor, wholesaler, manufacturer, or an agent of any of these persons if the sale occurs in the regular course of lawful business activities. However, a retail distributor, wholesaler, or manufacturer is required to report a suspicious order to the state police department in accordance with subsection (g).

(3) The sale of a drug containing ephedrine or pseudoephedrine by a person who does not sell exclusively to walk-in customers for the personal use of the walk-in customers. However, if the person described in this subdivision is a retail distributor, wholesaler, or manufacturer, the person is required to report a suspicious order to the state police department in accordance with subsection (g).

(b) The following definitions apply throughout this section:

(1) "Constant video monitoring" means the surveillance by an automated camera that:

(A) records at least one (1) photograph or digital image every ten (10) seconds;

(B) retains a photograph or digital image for at least seventy-two (72) hours;

(C) has sufficient resolution and magnification to permit the identification of a person in the area under surveillance; and

(D) stores a recorded photograph or digital image at a location that is immediately accessible to a law enforcement officer.

(2) "Convenience package" means a package that contains a drug having as an active ingredient not more than sixty (60) milligrams of ephedrine or pseudoephedrine, or both.

(3) "Ephedrine" means pure or adulterated ephedrine.

(4) "Pharmacy" ~~or NPLeX retailer~~ **means: includes:**

(A) a pharmacy, as defined in IC 25-26-13-2; **or**

(B) a retailer containing a pharmacy, as defined in IC 25-26-13-2. ~~or~~

~~(C) a retailer that electronically submits the required information to the National Precursor Log Exchange (NPLeX) administered by the National Association of Drug Diversion Investigators (NADDI).~~

(5) "Pseudoephedrine" means pure or adulterated pseudoephedrine.



(6) "Retailer" means a grocery store, general merchandise store, or other similar establishment. The term does not include a pharmacy or NPLE~~x~~ retailer.

(7) "Suspicious order" means a sale or transfer of a drug containing ephedrine or pseudoephedrine if the sale or transfer:

(A) is a sale or transfer that the retail distributor, wholesaler, or manufacturer is required to report to the United States Drug Enforcement Administration;

(B) appears suspicious to the retail distributor, wholesaler, or manufacturer in light of the recommendations contained in Appendix A of the report to the United States attorney general by the suspicious orders task force under the federal Comprehensive Methamphetamine Control Act of 1996; or

(C) is for cash or a money order in a total amount of at least two hundred dollars (\$200).

(8) "Unusual theft" means the theft or unexplained disappearance from a particular pharmacy ~~or NPLE~~x~~ retailer~~ of drugs containing ten (10) grams or more of ephedrine, pseudoephedrine, or both in a twenty-four (24) hour period.

(c) A drug containing ephedrine or pseudoephedrine may be sold only by a pharmacy. ~~or NPLE~~x~~ retailer~~. Except as provided in subsection (f), a retailer may not sell a drug containing ephedrine or pseudoephedrine.

(d) A pharmacy ~~or NPLE~~x~~ retailer~~ may sell a drug that contains the active ingredient of ephedrine, pseudoephedrine, or both only if the pharmacy ~~or NPLE~~x~~ retailer~~ complies with the following conditions:

(1) The pharmacy ~~or NPLE~~x~~ retailer~~ does not sell the drug to a person less than eighteen (18) years of age.

(2) The pharmacy ~~or NPLE~~x~~ retailer~~ does not sell drugs containing more than:

(A) three and six-tenths (3.6) grams of ephedrine or pseudoephedrine, or both, to one (1) individual on one (1) day;

(B) seven and two-tenths (7.2) grams of ephedrine or pseudoephedrine, or both, to one (1) individual in a thirty (30) day period; or

(C) sixty-one and two-tenths (61.2) grams of ephedrine or pseudoephedrine, or both, to one (1) individual in a three hundred sixty-five (365) day period.

(3) Before the sale occurs, the pharmacist shall make a professional determination, based on the pharmacist-patient relationship, as to whether there is a legitimate medical and pharmaceutical need for ephedrine or pseudoephedrine



1 before selling ephedrine or pseudoephedrine to an individual.
 2 The pharmacist's professional determination may be based on
 3 factors that include the following:

4 (A) Prior medication filling history of the individual.

5 (B) Screening of the individual.

6 (C) Other tools that provide professional reassurance to
 7 the pharmacist that a legitimate medical and
 8 pharmaceutical need for ephedrine or pseudoephedrine
 9 exists.

10 If the pharmacist determines that an individual has a
 11 legitimate medical or pharmaceutical need for ephedrine or
 12 pseudoephedrine, the pharmacist shall permit the individual
 13 to purchase ephedrine or pseudoephedrine. A person or
 14 corporate entity may not mandate a protocol or procedure
 15 that interferes with the pharmacist's ability to exercise the
 16 pharmacist's independent professional judgment as to
 17 whether an individual has a legitimate medical or
 18 pharmaceutical need for ephedrine or pseudoephedrine.

19 (3) (4) The pharmacy or ~~NPLEx retailer~~ requires:

20 (A) the purchaser to produce a valid government issued photo
 21 identification card showing the date of birth of the person;

22 (B) the purchaser to sign a written or electronic log attesting
 23 to the validity of the information; and

24 (C) the clerk who is conducting the transaction to initial or
 25 electronically record the clerk's identification on the log.

26 Records from the completion of a log must be retained for at least
 27 two (2) years. A law enforcement officer has the right to inspect
 28 and copy a log or the records from the completion of a log in
 29 accordance with state and federal law. A pharmacy or ~~NPLEx~~
 30 ~~retailer~~ may not sell or release a log or the records from the
 31 completion of a log for a commercial purpose. The Indiana
 32 criminal justice institute may obtain information concerning a log
 33 or the records from the completion of a log from a law
 34 enforcement officer if the information may not be used to identify
 35 a specific individual and is used only for statistical purposes. A
 36 pharmacy or ~~NPLEx retailer~~ that in good faith releases
 37 information maintained under this subsection is immune from
 38 civil liability unless the release constitutes gross negligence or
 39 intentional, wanton, or willful misconduct.

40 (4) (5) The pharmacy or ~~NPLEx retailer~~ maintains a record of
 41 information for each sale of a nonprescription product containing
 42 pseudoephedrine or ephedrine. Required information includes:



- (A) the name and address of each purchaser;
- (B) the type of identification presented;
- (C) the governmental entity that issued the identification;
- (D) the identification number; and
- (E) the ephedrine or pseudoephedrine product purchased, including the number of grams the product contains and the date and time of the transaction.

~~(5)~~ **(6)** Beginning January 1, 2012, a pharmacy ~~or NPLeX retailer~~ shall, except as provided in subdivision ~~(6)~~; **(7)**, before completing a sale of an over-the-counter product containing pseudoephedrine or ephedrine, electronically submit the required information to the National Precursor Log Exchange (NPLeX) administered by the National Association of Drug Diversion Investigators (NADDI), if the NPLeX system is available to pharmacies ~~or NPLeX retailers~~ in the state without a charge for accessing the system. The pharmacy ~~or NPLeX retailer~~ may not complete the sale if the system generates a stop sale alert.

~~(6)~~ **(7)** If a pharmacy ~~or NPLeX retailer~~ selling an over-the-counter product containing ephedrine or pseudoephedrine experiences mechanical or electronic failure of the electronic sales tracking system and is unable to comply with the electronic sales tracking requirement, the pharmacy ~~or NPLeX retailer~~ shall maintain a written log or an alternative electronic recordkeeping mechanism until the pharmacy ~~or NPLeX retailer~~ is able to comply with the electronic sales tracking requirement.

~~(7)~~ **(8)** The pharmacy ~~or NPLeX retailer~~ stores the drug behind a counter in an area inaccessible to a customer or in a locked display case that makes the drug unavailable to a customer without the assistance of an employee.

(e) A person may not purchase drugs containing more than:

- (1) three and six-tenths (3.6) grams of ephedrine or pseudoephedrine, or both, on one (1) day;
- (2) seven and two-tenths (7.2) grams of ephedrine or pseudoephedrine, or both, in a thirty (30) day period; or
- (3) sixty-one and two-tenths (61.2) grams of ephedrine or pseudoephedrine, or both, in a three hundred sixty-five (365) day period.

These limits apply to the total amount of base ephedrine and pseudoephedrine contained in the products and not to the overall weight of the products.

(f) This subsection only applies to convenience packages. A retailer may sell convenience packages under this section without complying



with the conditions listed in subsection (d):

(1) after June 30, 2013; and

(2) before January 1, 2014.

A retailer may not sell drugs containing more than sixty (60) milligrams of ephedrine or pseudoephedrine, or both in any one (1) transaction. A retailer who sells convenience packages must secure the convenience packages behind the counter in an area inaccessible to a customer or in a locked display case that makes the drug unavailable to a customer without the assistance of an employee. A retailer may not sell a drug containing ephedrine or pseudoephedrine after December 31, 2013.

(g) A retail distributor, wholesaler, or manufacturer shall report a suspicious order to the state police department in writing.

(h) Not later than three (3) days after the discovery of an unusual theft at a particular retail store, the pharmacy ~~or NPLEEx retailer~~ shall report the unusual theft to the state police department in writing. If three (3) unusual thefts occur in a thirty (30) day period at a particular pharmacy, ~~or NPLEEx retailer~~, the pharmacy ~~or NPLEEx retailer~~ shall, for at least one hundred eighty (180) days after the date of the last unusual theft, locate all drugs containing ephedrine or pseudoephedrine at that particular pharmacy ~~or NPLEEx retailer~~ behind a counter in an area inaccessible to a customer or in a locked display case that makes the drug unavailable to customers without the assistance of an employee.

(i) A unit (as defined in IC 36-1-2-23) may not adopt an ordinance after February 1, 2005, that is more stringent than this section.

(j) A person who knowingly or intentionally violates this section commits a Class C misdemeanor. However, the offense is a Class A misdemeanor if the person has a prior unrelated conviction under this section.

(k) A pharmacy ~~or NPLEEx retailer~~ that uses the electronic sales tracking system in accordance with this section **and a pharmacist who makes a professional determination under this section is** are immune from civil liability for any act or omission committed in carrying out the duties required by this section, unless the act or omission was due to ~~negligence~~, recklessness or deliberate or wanton misconduct. A pharmacy or NPLEEx retailer is immune from liability to a third party unless the pharmacy or NPLEEx retailer has violated a provision of this section and the third party brings an action based on the pharmacy's or NPLEEx retailer's violation of this section.

(l) The following requirements apply to the NPLEEx:

(1) Information contained in the NPLEEx may be shared only with law enforcement officials.



- 1 (2) A law enforcement official may access Indiana transaction
- 2 information maintained in the NPLeX for investigative purposes.
- 3 (3) NADDI may not modify sales transaction data that is shared
- 4 with law enforcement officials.
- 5 (4) At least one (1) time per ~~week~~, ~~NADDI shall forward~~ **day**,
- 6 Indiana data contained in the NPLeX ~~including data concerning~~
- 7 **a for the previous calendar day shall be forwarded** ~~transaction~~
- 8 ~~that could not be completed due to the issuance of a stop sale~~
- 9 ~~alert~~, to the state police department.



Report of the President
Pro Tempore

Madam President: Pursuant to Senate Rule 68(b), I hereby report that Senate Bill 80, currently assigned to the Committee on Family & Children Services, be reassigned to the Committee on Corrections & Criminal Law.

LONG

COMMITTEE REPORT

Madam President: The Senate Committee on Corrections and Criminal Law, to which was referred Senate Bill No. 80, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, delete lines 1 through 17.

Page 2, delete lines 1 through 12.

Page 4, line 35, delete "may:" and insert "**may, consistent with IC 35-48-4-14.7:**".

Page 5, line 13, delete "IC 35-48-4-18, has the meaning set forth in" and insert "**IC 35-48-4-14.5, means a felony conviction for an offense described in:**

(1) IC 35-48-4-1 through IC 35-48-4-11.5; and

(2) IC 35-48-4-13 through IC 35-48-4-14.7."

Page 5, delete line 14.

Page 8, line 20, delete "IC 35-48-4-18);" and insert "**IC 35-31.5-2-106.5);"**

Page 10, between lines 36 and 37, begin a new line block indented and insert:

"If the pharmacist determines that an individual has a legitimate medical or pharmaceutical need for ephedrine or pseudoephedrine, the pharmacist shall permit the individual to purchase ephedrine or pseudoephedrine. A person or corporate entity may not mandate a protocol or procedure that interferes with the pharmacist's ability to exercise the pharmacist's independent professional judgment as to whether an individual has a legitimate medical or pharmaceutical need for ephedrine or pseudoephedrine."

Page 11, line 35, delete "," and insert ".".



Page 11, delete lines 36 through 37.

Page 13, line 9, after "section" insert **"and a pharmacist who makes a professional determination under this section"**.

Page 13, line 9, strike "is" and insert **"are"**.

Page 13, line 12, strike "negligence,".

Page 13, line 12, delete "recklessness," and insert "recklessness".

Page 13, delete lines 29 through 42.

Delete page 14.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 80 as introduced.)

YOUNG R MICHAEL, Chairperson

Committee Vote: Yeas 8, Nays 2.

